

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOE DALE MARTINEZ AND
FIDENCIO LOPEZ, JR., Individually
and on behalf of all others similarly
situated;

Plaintiffs,

v.

REFINERY TERMINAL FIRE
COMPANY

Defendant

Civil Action No. 2:11-cv-295

PLAINTIFFS' DESIGNATION OF EXPERTS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Joe Dale Martinez and Fidencio Lopez, Jr., Individually and on behalf of all others similarly situated, Plaintiffs herein, and file this their Designation of Experts pursuant to the Scheduling Order entered by this Court.

I.

RETAINED EXPERTS

Plaintiffs have retained the following experts. Their resume or curriculum vitae are attached hereto and incorporated by reference, and the files are hereby made available for inspection and copying at a mutually convenient time and location:

Name: Scott Turner
W. Scott Turner & Co.

Address: 710 N. Mesquite Street
Corpus Christi, TX 78401

Telephone: (361) 883-0795

Opinions: W. Scott Turner is an economist who will testify regarding damages owed to Plaintiffs by RTFC. Mr. Turner may also testify about the opinions and credentials of experts designated by other parties in this litigation. Mr. Turner's report, curriculum vitae, list of testimony and fee schedule are attached hereto as Docev Nos. 2778-000352/801 and are incorporated by reference the same as if set forth fully herein. Further, Plaintiffs incorporate Mr. Turner's testimony and his complete file in this matter as if set forth herein. Plaintiffs hereby tender Mr. Turner's file for inspection and copying at the offices of Sico, White, Hoelscher, Harris & Braugh L.L.P. at a time mutually convenient to all counsel.

Tender for
Deposition: Plaintiffs tender W. Scott Turner for his deposition at a time mutually agreeable to all counsel.

Name: Brian T. Farrington
Cowles & Thompson, P.C.

Address: Bank of America Plaza
901 Main St., Suite 3900
Dallas, TX 75202

Telephone: (214) 672-2117

Opinions: Brian T. Farrington is a liability expert who worked for the Department of Labor from 1975–1989 and will testify regarding RTFC's violations of the FLSA and Plaintiffs' non-exempt status under the FLSA. Mr. Farrington may also testify about the opinions and credentials of experts designated by other parties in this litigation. Mr. Farrington's report, curriculum vitae, list of testimony and fee schedule are attached hereto as Docev Nos. 2778-000802/000871 and are incorporated by reference the same as if set forth fully herein. Further, Plaintiffs incorporate Mr. Farrington's testimony and his complete file in this matter as if set forth herein. Plaintiffs hereby tender Mr. Farrington's file

for inspection and copying at the offices of Sico, White, Hoelscher, Harris & Braugh L.L.P. at a time mutually convenient to all counsel.

Tender for

Deposition: Plaintiffs tender Brian T. Farrington for his deposition at a time mutually agreeable to all counsel.

Name: David L. Kern
Kern Law Firm

Address: 309 East Robinson Ave.
El Paso, TX 79902

Telephone: (915) 542-1900

Opinions: David L. Kern is a Board Certified Labor and Employment lawyer in the State of Texas who will testify in support of the attorneys' fee petition of the Plaintiffs' attorneys in this case. His testimony may include, but is not limited to the following: the reasonable amount of attorney time required to prosecute an FLSA collective action such as that of Plaintiffs under the present circumstances; whether the work performed by Craig M. Sico, Roger S. Braugh, Jr., Clif Alexander, Stuart R. White, Tara A. Hoelscher, and Jerry Guerra was reasonable and necessary to prosecute the case on behalf of the Plaintiffs; the reasonable hourly rate for these attorneys to charge for such services; the reasonable value of such services in the State of Texas, the Southern District of Texas, and Nueces County; other *Johnson* factors relevant to the attorney fee petition; and other information pertinent to support the fee petition of the Plaintiffs' in this case. Mr. Kern may also testify about the opinions and credentials of experts designated by other parties in this litigation. Mr. Kern's curriculum vitae, list of publications and fee schedule are attached hereto as Docev Nos. 2778-000872/000875 and are incorporated by reference the same as if set forth fully herein. Further, Plaintiffs incorporate Mr. Kern's testimony and his complete file in this matter as if set forth herein. Plaintiffs hereby tender Mr. Kern's file for inspection and copying at the offices of Sico, White, Hoelscher,

Harris & Braugh L.L.P. at a time mutually convenient to all counsel.

Tender for

Deposition: Plaintiffs tender David L. Kern for his deposition at a time mutually agreeable to all counsel.

Name:

Craig M. Sico
Sico, White, Hoeslcher, Harris & Braugh L.L.P.

Address:

900 Frost Bank Plaza
802 N. Carancahua
Corpus Christi, TX 78401

Telephone: (361) 653-3300

Opinions:

Craig M. Sico is a Board Certified Personal Injury lawyer in the State of Texas who will testify in support of the attorneys' fee petition of the Plaintiffs' attorneys in this case. His testimony may include, but is not limited to the following: the reasonable amount of attorney time required to prosecute an FLSA collective action such as that of Plaintiffs under the present circumstances; whether the work performed by himself, Roger S. Braugh, Jr., Clif Alexander, Stuart R. White, Tara A. Hoelscher, and Jerry Guerra was reasonable and necessary to prosecute the case on behalf of the Plaintiffs; the reasonable hourly rate for these attorneys to charge for such services; the reasonable value of such services in the State of Texas, the Southern District of Texas, and Nueces County; and other information pertinent to support the fee petition of the Plaintiffs' in this case. Mr. Sico's curriculum vitae is attached hereto as Docev Nos. 2778-000876/000877 and is incorporated by reference the same as if set forth fully herein.

Tender for

Deposition: Plaintiffs tender Craig M. Sico for his deposition at a time mutually agreeable to all counsel.

Name:

David L. Kern
Kern Law Firm

Address:

309 East Robinson Ave.
El Paso, TX 79902

Telephone: (915) 542-1900

Opinions: David L. Kern is also a consulting expert whose opinions have been relied upon by testifying experts W. Scott Turner and Brian T. Farrington. His testimony may include, but is not limited to the following: the damages owed to Plaintiffs by RTFC in this case, RTFC's violations of the FLSA, and Plaintiffs' non-exempt status under the FLSA.

Tender for

Deposition: Plaintiffs tender David L. Kern for his deposition at a time mutually agreeable to all counsel.

II.

CROSS-DESIGNATION OF EXPERTS

Plaintiffs hereby cross-designate and state that they may call any expert identified or designated by an adverse party or an employee or representative of an adverse party to elicit expert opinions subject to any objections Plaintiffs make concerning the designation of such experts and the admissibility of their opinions.

Plaintiffs reserve the right to elicit opinion testimony, either through direct examination or cross-examination, of all witnesses designated or identified by any party. Plaintiffs reserve the right to call unidentified rebuttal witnesses, whose testimony cannot be predicted at this time to offer opinion testimony in response to opinions offered by witnesses of any party. Any fact witnesses designated by Plaintiffs may offer lay opinions regarding matters within their knowledge.

Plaintiffs expressly reserve the right to withdraw the designation of any expert and to aver positively that any such previously designated expert will not be

called as a witness at trial, and to re-designate same as a consulting expert only, who cannot be called by opposing counsel.

Plaintiffs reserve the right to supplement the foregoing expert designations pursuant to the Federal Rules of Civil Procedure and the Rules of this Court as discovery proceeds and information is obtained and in accordance with future rulings of this Court.

Respectfully submitted,

/s/ Craig M. Sico
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CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May 2013, a copy of the foregoing instrument was served on counsel of record by electronic filing at the website for the Southern District of Texas at <http://www.txsd.uscourts.gov>.

/s/ Craig M. Sico
Craig M. Sico

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